

"THE THUG" THE LAW RELATING TO PILLORIED FRAUDS AT ELECTIONS

"WHEN A THUG IS GOING TO TORTURE A MAN HE DOES NOT CALL HELP—HE DOES NOT ADVERTISE HIS INTENTION. HE GOES INTO SECRET PLACES. SO IT IS THAT WE HAVE ONLY THE EVIDENCE OF THE THUG AND OF THE VICTIM."

Thus Mr. Lightfoot commented in argument yesterday afternoon upon the failure of the prosecution to contradict the Korean defendant, Y. Man Yong, in his story, told under oath, of torturing he suffered three successive nights, in the police station, at the hands of Henry Vida.

At the close of Mr. Lightfoot's speech, after 4 o'clock, Judge Lindsay announced that he would give his ruling, in presence of the jury this morning, upon the admission or rejection of defendant's alleged confession. For two days, the jury being excused, evidence and argument on this question had been heard.

Yesterday morning the cross-examination of Yong by Deputy Attorney General Fleming was concluded. Messrs. Lightfoot and Noar called as next witness the woman in the case, who had visited defendant at the station at the time he was in custody there. She testified that Yong was feverish and excited. Her interference in defendant's case, the witness said, caused her home to be broken up and her husband to leave her. She admitted she was very fond of the Korean, and she was emotional on the witness stand.

Messrs. Fleming and Cathcart for the prosecution called policeman Joe Leal and Turnkey Melanphy, who did not contradict any of the main facts alleged by defendant. Melanphy denied that he ever refused Yong water, and Leal that he had slapped Yong's hands while thrust through the bars of his cell.

Mr. Cathcart made the closing argument for the admission of the confession. He treated defendant's evidence about the water cure and other tortures as incredible. Nobody who had lived here a year would believe it. The suggestion of Sheriff Brown's absence from town that day was given as a reason why he was not put on the stand to contradict the defendant. Mr. Cathcart also drew favorable conclusions for the prosecution from the woman's evidence.

Mr. Lightfoot, replying, dealt sarcastically with the failure of the prosecution to call Sheriff Brown. The Sheriff was too busy electioneering, forsooth, to be concerned when only the liberty of a poor Korean was at stake. Policeman Leal, the one not called, perhaps was too busy electioneering likewise.

"I know there is too much Scotch justice in that head of yours, your Honor, to stand for that sort of thing," the attorney said. "Your Honor's crime is spotless and therefore I know you will not stand for that sort of thing. I say this advisedly because I know the history of a great deal of important litigation that has come before you and have myself been turned down in some of it."

Opposite counsel had said there was no evidence of promise of reward to defendant if he confessed. But that Korean was in fear from day to day. Vida admitted he talked in a loud tone to him and not kindly—"I did not feel that way" was his evidence.

Mr. Lightfoot rung in Magna Charta and the curse by the Archbishop of Canterbury upon anyone who should abridge the liberties of the subject. The days of the rack and the thumb-screw as modes of extorting confessions were past. There was no power in the Territory of Hawaii or in the United States of America to compel a man to take the stand in court and testify against himself.

"Shall we allow to be done by indirection what cannot be done directly?" Even if a man could be compelled to go on the stand he was always surrounded by the presumption of innocence until proved guilty. Confession could not be received unless made without the influence of either hope or fear.

Eliminate the story of Yong altogether and take the story of Henry Vida and the other minions of the police department, and His Honor could not stand for it. When counsel said nobody who had been here for a year would believe Yong's story, did he refer to Palenapa or to Townsend? Surely it was a story to arouse suspicion in the minds of people who had not been here a year!

Yong's evidence had been attacked for the minuteness of detail with which it was given. If His Honor had been bound and gagged would not he remember it?

Then Mr. Cathcart had discredited the defendant for his coolness on the stand. It was witnesses telling lies who were not cool, who showed nervousness on the stand. Because Yong was telling the truth he was cool as a cucumber. On the stand he was removed from the terrors of the police station and in the presence of the majesty of the law. Why then should he not have been cool?

"When a thug is going to torture a man," counsel proceeded, "he does not call for help—he does not advertise his intention. He goes into secret places. So it is that we have only the evidence of the thug and the victim."

Vida on the stand never told the same story twice alike. It was easy for him to say, "It's a lie."

"Are you to go on the evidence of Vida, the thug, whom we have been here a year know, or on the word of his victim whose evidence could not be shaken one jot or tittle by severest cross-examination?"

Turnkey Melanphy testified that he did not know if the hose was turned

Sec. 108. Election Frauds. The following persons shall be deemed guilty of an election fraud:

1. Every person who shall directly or indirectly, personally or through another, give, procure or lend, or offer to give, procure or lend, or who shall endeavor to procure, any money or office or place of employment of valuable consideration to or for any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who shall do any such act on account of any person having voted or refrained from voting for any particular person at any election.

2. Every person who shall directly or indirectly, personally or through another, make any such gift, loan, offer, promise, procurement or agreement as aforesaid, to any person, except to such assistants as are permitted by law, in order to induce such person to procure or endeavor to procure the election of any person to the legislature; or to procure the vote of any elector at any election.

3. Every person who shall advance or pay, or cause to be paid any money to, or to the use of, any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election for which money is by law allowed to be expended, excepting only reasonable expenses for conveying voters to the polling places on election days; or who shall knowingly pay or cause to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election, other than the objects and purposes for which money is by law allowed to be expended.

4. Every elector who shall, before, during or after any election, directly or indirectly, personally or through another, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party.

5. Every person who shall at any election, personally or through another, or by any ways or means on his behalf, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, entertainment or provision to or for any person in order to be elected, or for being elected, or for procuring the election of any candidate, or for the purpose of influencing such person or any other person to vote or refrain from voting; or for voting or refraining from voting for any particular person or party, at such election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party.

6. Every person who shall directly or indirectly, personally or through another, make use of, or threaten to make use of, any force, violence or restraint; or inflict or threaten to inflict any injury, damage or loss in any manner, or in any way practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of such person having voted or refrained from voting, or voted or refrained from voting for any particular person or party.

7. Every person who shall willfully violate or fail to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.

8. Any person who shall willfully tear down or destroy or deface any election proclamation or any poster or notice or list of votes or card of instructions or specimen ballot, issued or posted by authority of law.

9. Any candidate who fails or neglects to furnish the list of agents prescribed in said rules and regulations.

10. Every person who shall, either in person or through another, in any manner break up or prevent, or endeavor to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner break up or prevent, or endeavor to break up or prevent, the holding of any election.

11. Every person who, being a candidate for election, or an agent of any such candidate, or a member of any committee acting for or on behalf of any such candidate, shall fail to file the statement of expenses or of lack of expenses, as required by law.

12. Every person who shall willfully violate or fail to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.

13. Any person who shall willfully tear down or destroy or deface any election proclamation or any poster or notice or list of votes or card of instructions or specimen ballot, issued or posted by authority of law.

for any particular person or party; or who shall by abduction, distress or any device or contrivance impede, prevent or otherwise interfere with the free exercise of the elective franchise.

14. Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting.

15. Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at such election.

16. Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift, or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement.

17. Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections contained, who shall willfully fail, neglect or refuse to do or perform the same, or who shall willfully perform it in such a way as to hinder the objects thereof, or who shall be guilty of any willful violation of any of the provisions thereof.

Sec. 110. Misdemeanors. The following persons shall be guilty of a misdemeanor:

1. Every person, except such assistants as are by law specifically authorized to be employed, who shall, for the purpose of promoting or preventing the election of any candidate at any election, be engaged or employed for payment or promise of payment, or for any valuable consideration, to act as agent, clerk or messenger, or in any other capacity.

2. Every person furnishing, hiring, or using any premises or portion thereof licensed to sell beer, wines or spirits, as a committee room for the purpose of promoting the election of any candidate at any election.

3. Every person who shall be disorderly or create a disturbance where by any meeting of the board of registration of voters or of the inspectors of election during an election shall be disturbed or interfered with; or whereby any person who intends to be lawfully present at any such meeting or election shall be prevented from attending; or who shall cause any disturbance at any election; and every person assisting or aiding or abetting any such disturbance.

4. Any candidate who fails or neglects to furnish the list of agents prescribed in said rules and regulations.

5. Every person who shall, either in person or through another, in any manner break up or prevent, or endeavor to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner break up or prevent, or endeavor to break up or prevent, the holding of any election.

6. Every person who, being a candidate for election, or an agent of any such candidate, or a member of any committee acting for or on behalf of any such candidate, shall fail to file the statement of expenses or of lack of expenses, as required by law.

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CANDIDATES AND OFFICIALS ON PROPOSED LIQUOR BILL

Some weeks ago the Anti-Saloon League sent out the following letter to various political parties of the islands:

Honolulu, T. H., October 15, 1928.

Dear Sir: In view of the prominence of the liquor question in the coming campaign, many voters are demanding to know the views on this subject of the different candidates for the Legislature. We herewith present (enclosed) the platform of the Anti-Saloon League and affix the following blank, which we request you to sign and return in the enclosed envelope.

We should like an immediate reply to this request. In case we do not hear from you by October 20 it will be taken for granted that you are not in favor of the platform of the Anti-Saloon League.

It is our purpose to state in all the papers of the Territory before election the point of view of every candidate for the Legislature, as well as the hold-over Senators, with reference to the league platform. Yours truly,

Secretary A. S. L.

The appended blank for the candidate's signature is as follows:

I hereby declare myself in favor of () the platform of the Anti-Saloon League, and I pledge my vote and my influence to secure by the next Legislature such laws as are outlined in this platform.

Signed _____ (Note: If not in favor of, write "opposed to." If opposed, write "do not.")

The platform follows:

ANTI-SALOON LEAGUE PLATFORM

The first and most important reform which the league urges is the adoption of Senator Dickey's local bill.

To this the league appends a list of further recommendations as follows:

First. That all fifth-class licenses be abolished. (\$100.)

Second. That the annual fee for fourth-class licenses be \$1000. (Now \$500.)

Third. That in every case of application for license the Treasurer be directed to publish the fact of his receipt of such application for four consecutive weeks before issuing the same, in a newspaper having general circulation in the precinct where the license is to be exercised.

Fourth. That opponents of the granting of a license be given the right to arbitrate the decision on the same terms as the applicant.

Fifth. That signers of petitions for license be restricted to "real estate owners" within the prescribed limits.

Sixth. That saloons be not allowed

within 400 feet of a church, chapel or school.

Seventh. That licenses be issued to citizens only.

Eighth. That the provision which subjects to penalty any one purchasing liquor from an unlicensed person or from a licensee contrary to the conditions of his license be repealed.

Ninth. That it be forbidden under penalty to sell liquor to a woman or to allow a woman to remain in or lounge about a saloon.

Tenth. That liquor shall be sold only where a full unobstructed view from the street at all hours of the day or night can be had of the entire place of sale, no screens, curtains, shades or other obstructions of any kind whatsoever being allowed to interfere with full public gaze through window or door.

The replies are classified as special, favorable, opposed and parrot.

SPECIAL.

W. O. Smith: Ignorant concerning Dickey's Local Option bill. Favors sec. 1, 2, 4, 6, 8, 9. No opinion to express on 3, 5, 7, 10.

L. L. McCandless: Voted local option bill last legislative session. Favors high license. Will carry out Republican platform and any other honest and just legislation.

John C. Lane: Noncommittal, but he voted for Dickey's Local Option bill at the last Legislature.

A. N. Hayselden, Maui: Favors local option and sec. 1, 2, 8, 9. Inclined to others save sec. 10, about which he isn't certain.

FAVORABLE WITHOUT BEING SPECIFIC.

Oahu: S. K. Ohi, J. M. Poepe, D. M. Kupihua, Daniel Damiano, John K. Mahoe, Mr. Kuluwaimaka, Iola Kea-hi, J. H. S. Kaleo, S. K. Hul, S. K. Mahoe, J. K. Nakookoa, Jesse Uluhi, Edward S. Like, Moses Palau, D. Kalauakani, Sr., Charles Broad, M. A. Silva, F. W. Weed, Edward Ingham, John Hughes.

Hawaii: David Puhl, Edward Ke-koa, M. K. Kealawa, J. W. Moanau, David Alawa, J. B. Kaohi, Thomas N. Nalelehu.

OPPOSED.

Chas. Ka, Kealakakua, Hawaii.

PARROT.

A word of explanation is due with respect to the title adopted for the following list: It means that one man, representing the Republican machine, wrote a letter in reply to the requests sent out and that it was copied by each of the following as his reply:

S. P. Correa, A. D. Castro, E. A. C. Long, Joseph Kalama, John L. Paoo.

BROWN VS. IAUKEA

(Continued from Page One.)

on such a scale that their patrons could not get into any available buildings, but lined the streets within two minutes' walk of the Police station, while the winning words were called out by Chinamen who rode by on bicycles. All this was done and continued to be done, practically in the presence of the police, and in defiance of the fact that daily accounts of the proceedings were published in the press.

Much of the epidemic of embezzlement which swept over the town and ruined a number of promising young men, about that time, was directly traceable to these and similar dens which flourished throughout the town.

What more could have happened under a Sheriff who was personally being bribed by the gamblers?

What difference does it make, in the practical administration of justice, whether Brown is personally honest or not, so long as he permits his department and the community to be debauched?

The results are what count. Whether these results come about through the direct bribery of Brown, or through his incompetence to make his subordinates do their duty, or through his inability to believe any wrong of those whom he has given his confidence to—all these may affect our personal feelings toward Brown, but whether the cause be the one or the other, the demoralizing and damaging effect upon the community is the same.

It is unnecessary to multiply instances of the injurious influence emanating from the Police station as a center, and the present reckless and open violation of the laws restricting the liquor business. They have been repeatedly published.

Briefly, it is a fact that saloons, and plenty of them, are publicly running, day and night, for seven days in the week, in defiance of the law which requires them to close all day Sunday and at midnight on other days.

It is a fact that women frequent these dens and brawl and fight therein and in the adjoining streets, in spite of the law prohibiting the presence of disorderly persons in saloons.

It is a fact that open gambling is now going on without police interference. It is a fact that immunity is being promised by the police, including the Sheriff and his chief deputy, to offenders against the law, and the promise is being made good.

It is a fact that intoxicating liquor is being ladled out at political meetings in the specific interest of the Brown coterie on the ticket, although since the wide publicity given to the fact in the press and on the stump, the dispensing machinery has been transferred to the saloons.

Are these and other like offenses to decency and good government, any less damaging to the public good if Brown is not corruptly being paid in gold coin for doing these things?

The fact that they are being done; that Brown is doing some of them himself; is permitting others to be done by his subordinates, and refuses to stop still others, is, in my opinion, sufficient reason why the public interest requires a change in the Sheriff's office.

As to Iaukea, I have known him for nearly thirty years. He has affiliated with several political parties and factions during that time. Let him who has lived in Hawaii during that period and not done likewise, throw the first stone.

He has filled a number of public offices and filled them all not only with honesty and ability, but with distinct credit to himself and to his race.

From my long acquaintance with him, from my belief in his honesty, from my knowledge of his ability, from his pledges that he will do his best to enforce the law, from Brown's own warnings on the stump, to the under world, that Iaukea WILL enforce the law, I believe that he will enforce it far better than Arthur Brown has, or will, if he continues in office.

I believe that if Iaukea is elected, there will be a different and purer moral atmosphere about the Police station than there now is.

I regret that unavoidable absence will prevent me from voting for Iaukea as a means and agent of making this city a better and safer place to live in. I am as much a believer in Republican principles as ever, but I believe that honest Republican government will be better promoted by voting for an honest man of another party who promises to try and enforce the law and remedy an intolerable situation, rather than to respond to the party lash and vote for a man who has not been proved dishonest; but who is conducting his office in the same manner that he would if he were corrupt, and who publicly states that if elected he will continue to conduct it in the same way.

LORRIN A. THURSTON.

A. S. Kaleiopo. The latter is noncommittal.

Farther than these we have received no replies save to the effect that E. F. Bishop and J. H. K. Kaiwi were away from home and therefore could not answer.

On Dickey's Local Option bill the Senate vote in the last Legislature was:

Aye—Achi, Bishop, Dickey, Hayselden, Isenberg, Kalama, Lane, Paris, McCandless, Wilcox.

No—Brown, Gandall, Hewitt, Woods. Absent—Dowsett.

The bill was killed in the House, a minority report from the committee being adopted. This minority report against the bill was by S. Mehealani and W. P. Hala. The majority report, which favored the bill, was by Frank Andrade, William J. Sheldon and Carl S. Smith.

Of course the Anti-Saloon League is in favor of those who favor its platform and is opposed to those who oppose its platform. The difficulty it experiences in determining what to do regarding those who are studiously noncommittal. Are they for us and yet wish to hold the saloon vote, or are they against us and yet wish to hold ours? We do not know.

But there is one thing which comes to light through this correspondence that should interest the voter. It is a condition revealed by the machine letter referred to above, and which was copied by a number of the candidates whose replies are catalogued under the title of "parrot." That letter will receive attention in tomorrow's issue.

AGITATION COMMITTEE ANTI-SALOON LEAGUE.

G. D. EDWARDS, Chairman.

GENERAL SIZE-UP

(Continued from Page One.)

meetings to hear oratory all of the time, in not selecting George Davis. George is one of the old style spellbinders without the academic features of some of the new men in the field. But the gentleman who passes this opinion says he will go to the debating hall anyhow.

The Republican candidates got away yesterday in wagons and surreys to the other side of the island. Judge Mahulu went along as special interpreter and the trip is to be a glorious round of pleasure, polo and pig.

WATERHOUSE IS SORE.

Fred. Waterhouse, who will probably be the next County Treasurer, is a trifle sore at the press reporters for ending his speech right after night with the remark that "Waterhouse told his shark story."

"The fact is, I have not told that story for a week. It is Archie Mahulu," he said, "who gets in the work in that line. He speaks Hawaiian a little more fluently than I and he likes a mele better than anything I know of, so I give him a chance to make himself popular. He has helped me very much in the campaign and the story has been enjoyed very much by the Hawaiians. They do not go to the meetings to hear a lot of statistics relative to tariff; a story suits them better and that is the reason Charlie Hustace is so often applauded. The shark story is true as far as Hawaiian folk lore goes and we must accept it as a good thing or it would not please the Hawaiians."

RAWLINS MISUNDERSTOOD.

Willie Rawlins remarks at Kamehameha park, Wednesday night, seem to have been misinterpreted by at least one of the members of the Portuguese colony. Rawlins said during his remarks, that a man who used a knife upon the anatomy of a fellowman was liable to punishment by the courts; the one who used a knife on his ballot should not have any consideration. One of his hearers construed his remarks to mean that the Portuguese should be put in jail. It seems the objector to the remarks had been in jail during Rawlins' term as Deputy Sheriff, an incident which had been overlooked by the speaker. Rawlins found his man at the Square last night and convinced him that he had misunderstood him the previous night.

NOT THE DEMOCRATS.

Some prejudiced mind has put it into the head of the Bulletin that the indictment of Kakaako colonists was the work of Democratic members of the grand jury. On this subject a Democrat says: "As a campaign statement, such poor guess may be passed over with a smile. As a matter of fact there are three Democrats on the jury against thirteen Republicans, so that the indictments could not have been brought by the Democrats alone and it required a majority of all the Republicans to find a true bill. It is scarcely a square deal for anyone to attempt to throw the blame of the scheme upon the Democrats. Assuming, however, that the thwart to the enterprise was handled by a Democratic juror—why blame him? We are told that the Democrats will clean house and it is not out of place to have the scene of the preliminary operations in Sam Johnson's precinct—the station house cleaning may easily follow as well at a later date."

NOTHING TO FEAR.

Mothers need have no hesitancy in giving Chamberlain's Cough Remedy to their little ones, as it contains absolutely nothing injurious. This remedy is not only perfectly safe to give small children, but is a medicine of great worth and merit. For sale by Benson, Smith & Co., Ltd., agents for Hawaii.

In the case of Pauole vs. Kalua, in which defendant was defaulted on Wednesday, W. C. Achi yesterday filed an affidavit by defendant made October 26 at Wailuku, showing that he is a candidate for sheriff of Maui, that his presence in that county is therefore needed, that to absent himself now would cause the loss of his vote, that his witnesses are residents of the Island of Molokai, on whom it would be a great hardship to absent themselves at the present time, that he has a meritorious defense to the action and that if forced to trial at the present time his interests would be jeopardized.